

RICARDO ARYAN

v

THE QUEEN

Court: Blanchard, Tipping and McGrath JJ

Counsel: M W Ryan for Applicant
M J Lillico for Crown

Judgment: 13 March 2012

JUDGMENT OF THE COURT

The application for leave to appeal is dismissed.

REASONS

[1] Mr Aryan was convicted of sexual offending against a young member of his family. His appeal to the Court of Appeal on various grounds was unsuccessful.¹ He now seeks leave to appeal to this Court some 18 months out of time on a completely new basis. He tenders a brief affidavit from the complainant, made after the decision of the Court of Appeal, in which she says that she agreed to the incidents that happened between her and Mr Aryan and did not tell the truth because she did not want her family to blame her.

¹ *Aryan v R* [2010] NZCA 57.

[2] We do not grant leave. The matter sought to be raised is entirely factual and raises no question of general principle. This Court is not the appropriate forum for an appeal of this kind which requires an assessment of the credibility of the key witness against the evidence she and others gave at trial. The Court will be in no position to say that a substantial miscarriage of justice has occurred in the absence of an investigation which the Court cannot undertake.

[3] If the applicant wishes to pursue the matter, the appropriate course is by way of an application under s 406 of the Crimes Act 1961, where it would be possible for a full investigation to be undertaken, if that is shown to be warranted.

Solicitors:
Crown Law Office, Wellington